

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

|              |   |                               |
|--------------|---|-------------------------------|
|              | ) |                               |
| LUIS RIVERA, | ) |                               |
|              | ) |                               |
| Petitioner,  | ) |                               |
|              | ) |                               |
| v.           | ) | Civil Action No. 04-12717-RCL |
|              | ) |                               |
| DAVID NOLAN, | ) |                               |
|              | ) |                               |
| Respondent.  | ) |                               |
|              | ) |                               |

**RESPONDENT'S MOTION TO ACCEPT AS TIMELY FILED  
MEMORANDUM OF LAW IN OPPOSITION TO  
PETITIONER'S MEMORANDUM REGARDING 28 U.S.C. § 2244(d)(1)(D)**

The respondent, David Nolan, respectfully submits this motion to accept his memorandum of law in opposition to the petitioner's memorandum regarding the question of whether the petition is time-barred under the provisions of 28 U.S.C. § 2244(d)(1)(D) as though it were timely filed. As grounds for this motion, undersigned counsel states that the memorandum was, according to the Court's order, due to be filed on or before the close of business on Friday, January 11, 2008. Due to a number of factors, including the need for technical assistance in converting paper exhibits to computer files for e-filing, undersigned counsel was unable to complete the memorandum by the close of business on the assigned date. The memorandum has been filed today, the next business day. The respondent submits that accepting the memorandum one day late will neither unduly delay the proceedings in this case nor cause undue prejudice to any party.

WHEREFORE, the respondent respectfully requests that this Court accept his

memorandum of law with respect to the limitations question pursuant to 28 U.S.C. § 2244(d)(1)(D).

Respectfully submitted,

MARTHA COAKLEY  
ATTORNEY GENERAL

/s/ Maura D. McLaughlin  
Maura D. McLaughlin (BBO # 634923)  
Assistant Attorney General  
Criminal Bureau  
One Ashburton Place  
Boston, Massachusetts 02108  
(617) 727-2200, ex. 2857

Dated: January 14, 2008

**Certificate of Service**

I hereby certify that on January 14, 2008, I caused a copy of the above document to be served via first class mail, postage prepaid, upon Mr. Luis Rivera, petitioner *pro se*, W-52832, P.O. Box 43, Norfolk, Massachusetts 02056.

/s/ Maura D. McLaughlin  
Maura D. McLaughlin